



COMMISSIONER  
SMALL BUSINESS/Self-EMPLOYED DIVISION

DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
WASHINGTON, D.C. 20224

MEMORANDUM FOR TREASURY INSPECTOR GENERAL FOR TAX  
ADMINISTRATION

FROM: Dale F. Hart *Dale Hart by 1/18/12*  
Commissioner, Small Business/Self-Employed Division

SUBJECT: Draft Audit Report – The Regulations for Granting  
Extensions of Time to File Are Delaying the Receipt of  
Billions of Tax Dollars and Creating Substantial  
Burden for Compliant Taxpayers (Audit # 200130032)

I have reviewed your draft audit report. In the report, you raised some valid points and provided us with some valuable statistical information. Although we do not agree with all of your recommendations, we do concur that your findings are worthy of further study, analysis and consideration. As a result, we are putting together a team to further analyze the statistics you provided and the impact your recommendations would have on filing and payment compliance. This multifaceted "Extension to File" study team will include representatives from Small Business/Self Employed, Wage and Investment, Chief Counsel, and other operating divisions.

Additionally, I want to point out that we are always looking for ways to reduce taxpayer burden in the area of extensions to file. In 1999, we greatly reduced taxpayer burden by implementing extensions to file by telephone. In 1997, the Reinventing Service at the IRS Task Force recommended we eliminate the requirement to file Form 4868, Application of Automatic Extension of Time to File U.S. Individual Income Tax Return, except when a payment is due. Results from the study indicated that the April 15 deadline would become meaningless, if the filing date was automatically extended. Taxpayers would also have difficulty understanding that extending the filing date does not extend the payment date.

Earlier this year, the Office of Taxpayer Burden Reduction performed preliminary research and concluded that the regulations can be revised to reduce the requirement of two separate forms to obtain the maximum extension to file. They are also creating a team to explore the possibility of simplifying the requirements, but are not considering eliminating the requirement to file an extension.

We believe the current regulations are consistent with congressional intent. Taxpayers that fail to request an extension of time to file by April 15 and those that do file a timely extension are not similarly situated and should not be treated as such. Filing an extension request provides us with information about the taxpayer, which may be useful in enforcement activities and reduce burden on resources and costs. Extension requests provide needed information for our nonfiler efforts and assist in expediting our Taxpayer Delinquency Investigations (TDIs) as recommended by the General Accounting Office. The Office of Taxpayer Burden Reduction is evaluating the current extension process that includes the filing of two extensions – an automatic extension of four months, and an additional extension of two months.

In summary, our response to your recommendations is as follows:

### **RECOMMENDATION 1**

1. The IRS Commissioner should revise the tax regulations applicable to individual taxpayers to:
  - a) Eliminate the requirement that taxpayers must make “reasonable” or “proper” estimates of their tax liabilities in order to remove the uncertainty about whether or not the qualifications for an extension have been met. The revised regulations should specify that taxpayers will qualify for extensions of time to file only if the prescribed percentage (see Recommendation 1.b.) of the prior year’s tax liability or the current year’s tax liability (as determined by the tax return, when filed) was paid by the normal due date for filing the return.
  - b) Grant extensions of time to file only to payment-compliant taxpayers. Under the authority granted in Internal Revenue Code (I.R.C.) Section 6081(a) for granting reasonable extensions of time to file of up to six months, extensions should be granted only to taxpayers whose payments by April 15 either:
    1. Are at least as much as the taxpayer’s prior year’s tax liability, or
    2. Are at least as much as 90 percent of the taxpayer’s current year’s tax liability.
  - c) Establish October 15 as the sole extended due date for individual taxpayers, replacing the current automatic 4-month (to August 15) and optional 2-month (to October 15) extended due dates. This action would reduce the complexity of the current system that requires the submission of two forms to obtain an extension to October 15. This action should be taken under authority granted in I.R.C. Section 6081(a) for granting reasonable extensions of time to file of up to six months.
  - d) Establish safeguards, commonly called “safe harbors,” to protect reasonably compliant taxpayers from unwarranted assessment of the Delinquency Penalty. Under authority granted in I.R.C. Section 6651(a)(1) for determining reasonable cause in relation to the Delinquency Penalty, reasonable cause for post-April 15 filing should be assumed for all taxpayers filing by October 15, whether or not an extension to file has been formally requested, if:

1. By April 15, a taxpayer has paid at least as much as their prior year's taxes or at least 90 percent of their current year's taxes. These safe harbors ensure that all like-situated taxpayers will be subject to the same penalties for the same payment noncompliance.
- e) For taxpayers filing after October 15, provide for the assessment of the Delinquency Penalty on all taxes not paid by April 15, since such lengthy delays in compliance indicate that the taxpayers have taken no prudent steps to meet either their tax payment or tax filing obligations. Therefore, these taxpayers have not earned the safeguards that are provided to taxpayers who are making a reasonable effort to comply.

### **CORRECTIVE ACTION**

We agree with Recommendation 1c. The Office of Taxpayer Burden Reduction is reviewing the current requirements for applying for an extension of time to file a return. As a part of that initiative, we will evaluate the requirements that individual taxpayers submit two forms to obtain the maximum 6-month extension to October 15.

With respect to Recommendations 1a, b,d and e, we will direct our study team to analyze your recommendations and the impact upon filing and payment compliance.

### **IMPLEMENTATION DATE**

Recommendation 1c - July 15, 2005

All other recommendations - The Extension to File study team will begin work on August 15, 2004. We anticipate the team will complete their study within one year.

### **RESPONSIBLE OFFICIAL**

Recommendation 1c – Director, Taxpayer Education and Communication, Small Business/Self Employed Division

All other recommendations - Director, Reporting Enforcement, Small Business/Self Employed Division

### **CORRECTIVE ACTION MONITORING PLAN**

Recommendation 1c – The Director, Office of Taxpayer Burden Reduction will advise the Director, Taxpayer Education and Communication of corrective action delays.

All other recommendations - The Program Manager, Penalty and Interest will head the study team and report back through the Deputy Director, Compliance Policy.

### **RECOMMENDATION 2**

Once the above changes to the IRS regulations have been implemented to ensure the objective and equitable treatment of taxpayers for payment noncompliance, the IRS

Commissioner should consider changing the regulations to eliminate the requirement for taxpayers to file an application, either on paper or electronically, with the IRS in order to receive extensions of time to file a tax return. This action should be taken under authority granted in I.R.C. Section 6081(a) for granting reasonable extensions of time to file of up to six months.

### **CORRECTIVE ACTION**

As previously stated, we believe further study must be done regarding your recommendation, particularly since we completed a June 18, 1999 study which raised serious concerns about similar proposals.

### **IMPLEMENTATION DATE**

The Extension to File study team will begin work on August 15, 2004. We anticipate the team will complete their study within one year.

### **RESPONSIBLE OFFICIAL**

Director, Reporting Enforcement, Small Business/Self Employed Division

### **CORRECTIVE ACTION MONITORING PLAN**

The Program Manager, Penalty and Interest will head the study team and report back through the Deputy Director, Compliance Policy.

### **RECOMMENDATION 3**

The Commissioner, Wage and Investment Division, should revise the tax package instructions to include:

- a) A worksheet to assist taxpayers in determining whether they have met the new requirements to pay 90 percent of the current year taxes, or 100 percent of the previous year's taxes, by April 15.
- b) Statistics that stress the economic advantages of filing by April 15 and arranging for installment payments of taxes owed as compared to filing after April 15 and incurring interest and penalties.
- c) Information on the total interest and penalty costs of delaying the payment of taxes, expressed as percentages and dollar amounts for a limited number of simple, common situations. For instance, taxpayers should be provided enough information to compare the total costs of filing on October 15 both with and without meeting safe harbor requirements by April 15.

**CORRECTIVE ACTION**

As previously stated, we believe further study must be done regarding your recommendation, particularly since we completed a June 18, 1999 study which raised serious concerns about similar proposals.

**IMPLEMENTATION DATE**

The Extension to File study team will begin work on August 15, 2004. We anticipate the team will complete their study within one year.

**RESPONSIBLE OFFICIAL**

Director, Reporting Enforcement, Small Business/Self Employed Division

**CORRECTIVE ACTION MONITORING PLAN**

The Program Manager, Penalty and Interest will head the study team and report back through the Deputy Director, Compliance Policy.

If you have any questions, please contact Joseph R. Brimacombe, Deputy Director, Compliance Policy, Small Business/Self Employed Division, at (202) 283-2200.